

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION

MARY A. DIGGS,)
Plaintiff,)
v.) Civil Action No.: 6:17-cv-00026
WAL-MART STORES EAST, LP,)
and)
WAL-MART STORES, INC.,)
doing business as Wal-Mart)
Supercenter #2565)
197 Madison Heights Square)
Madison Heights, Virginia 24572)
a/k/a Wal-Mart, a/k/a Wal-Mart Store)
a/k/a Wal-Mart Supercenter,)
Defendants.)

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

The defendants, Wal-Mart Stores East, LP, and Wal-Mart Stores, Inc. (collectively referred to herein as "Wal-Mart"), by counsel, move this Court for the entry of summary judgment, pursuant to Rule 56 of the Federal Rules of Civil Procedure, for the reasons set forth in their accompanying Memorandum. The undisputed facts in the record show that the plaintiff is unable to prove a *prima facie* case of negligence against Wal-Mart. Additionally, the evidence is clear that the plaintiff is guilty of contributory negligence as a matter of law for failing to exercise ordinary care for her own safety.

WHEREFORE, Wal-Mart, by counsel, respectfully requests that this Court enter summary judgment in its favor and dismiss this action with prejudice. Wal-Mart requests such further and additional relief as the Court deems just and proper.

WAL-MART STORES EAST, LP,
and WAL-MART STORES, INC.

By: /s/ Victor S. Skaff, III
Of Counsel

C. Kailani Memmer (VSB No. 34673)
Victor S. ("Dinny") Skaff, III (VSB No. 40054)
GLENN ROBINSON CATHEY MEMMER & SKAFF PLC
Fulton Motor Lofts
400 Salem Avenue, SW, Suite 100
Roanoke, VA 24016
Phone: (540) 767-2200
Fax: (540) 767-2220
kmemmer@glenrob.com
vskaff@glenrob.com

Counsel for Defendants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 18th day of January, 2018, a copy of Defendants' Motion for Summary Judgment was filed with the Clerk of Court using the CM/ECF system which will electronically notify the following, to wit:

Gary L. Straw, Esq. (VSB No. 79118)
Straw Law Firm, PLLC
1134 Thomas Jefferson Road, Suite 1
Forest, VA 24551
Telephone: (434) 616-2760
Facsimile: (434) 616-2761
Email: strawgl@gmail.com

Counsel for Plaintiff

/s/ Victor S. Skaff, III
Victor S. Skaff, III